#### AGENDA



## BERKELEY CITY COUNCIL MEETING TUESDAY, OCTOBER 30, 2012 7:00 P.M.

#### COUNCIL CHAMBERS - 2134 MARTIN LUTHER KING JR. WAY

TOM BATES, MAYOR Councilmembers:

DISTRICT 1 – LINDA MAIO
DISTRICT 2 – DARRYL MOORE
DISTRICT 3 – MAX ANDERSON
DISTRICT 4 – JESSE ARREGUIN

DISTRICT 5 – LAURIE CAPITELLI
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – KRISS WORTHINGTON
DISTRICT 8 – GORDON WOZNIAK

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, CMC, Acting City Clerk, 981-6900.

The City Council may take action related to any subject listed on the Agenda. The Mayor may exercise a two minute speaking limitation to comments from Councilmembers. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

## **Preliminary Matters**

#### Roll Call:

**Ceremonial Matters:** In addition to those items listed on the agenda, the Mayor may add additional ceremonial matters.

**City Manager Comments:** The City Manager may make announcements or provide information to the City Council in the form of an oral report. The Council will not take action on such items but may request the City Manager place a report on a future agenda for discussion.

**Public Comment on Non-Agenda Matters:** Five persons selected by lottery will have two minutes each to address matters not on the Council agenda. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a name card to the City Clerk in person at the meeting location and prior to commencement of that meeting. Five cards will be drawn by the City Clerk to determine the speakers who will be allowed to comment during the first round of public comment on non-agenda matters. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Name cards are not required for this second round of public comment on non-agenda matters.

**Public Comment on Consent Calendar and Information Items Only:** The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Up to three speakers will be entitled to two minutes each to speak in opposition to or support of a Consent Calendar Item. The Presiding Officer will ask additional persons in the audience to stand to demonstrate their respective opposition to or support of the item.

In the event that there are more than three persons wishing to speak either in opposition to or support of a "Consent" item, the Presiding Officer will move the item to the beginning of the Action Calendar. Prior to moving the item, the Presiding Officer will fully inform those persons in the audience of this process.

Additional information regarding public comment by City of Berkeley employees and interns: Employees and interns of the City of Berkeley, although not required, are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops.

#### **Consent Calendar**

The Council will first determine whether to move items on the agenda for action or "Information" to the "Consent Calendar", or move "Consent Calendar" items to action. Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent".

After hearing from public speakers regarding items remaining on the Consent Calendar, any Council Member may move any Information or Consent item to "Action", however no additional items can be moved onto the Consent Calendar at that point. Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

For items removed from the Consent Calendar to the Action Calendar for additional public comment, at the time the matter is taken up during the Action Calendar, public comment will be limited to persons who have not previously addressed that item during the Consent Calendar related public comment period.

## 1. Amendment to Affidavit of Residency Requirement for City Commissioners From: City Manager

**Recommendation:** Adopt second reading of Ordinance No. 7,260-N.S. amending Berkeley Municipal Code Section 2.04.145 to modify the enforcement procedure for non-filing of the Affidavit of Residency by City commissioners.

First Reading Vote: All Ayes
Financial Implications: See report

Contact: Mark Numainville, Acting City Clerk, 981-6900

#### 2. Amendment: FY 2013 Annual Appropriations Ordinance

From: City Manager

**Recommendation:** Adopt first reading of an Ordinance amending the FY 2013 Annual Appropriations Ordinance No. 7,254-N.S. for fiscal year 2013 based upon recommended re-appropriation of committed FY 2012 funding and other adjustments authorized since July 1, 2012, in the amount of \$59,102,317 (gross) and \$52.866.832 (net).

Financial Implications: See report

Contact: Teresa Berkeley-Simmons, Budget Manager, 981-7000

#### 3. Revised Conflict of Interest Code

From: City Manager

**Recommendation:** Adopt a Resolution adopting a revised Conflict of Interest Code for the City of Berkeley and rescinding Resolution No. 65,786-N.S.

Financial Implications: None

Contact: Mark Numainville, Acting City Clerk, 981-6900

#### **Consent Calendar**

## 4. Donation to the Animal Shelter from the Ting Tsung and Wei Fong Chao Foundation

From: City Manager

**Recommendation:** Adopt a Resolution accepting a donation from the Ting Tsung and Wei Fong Chao Foundation in the sum of \$5,000, at the direction of Elizabeth

Chao.

Financial Implications: Donation - \$5,000

Contact: William Rogers, City Manager's Office, 981-7000

# 5. Lease of City Van to 100 Black Men of the Bay Area Community School From: City Manager

**Recommendation:** Adopt first reading of an Ordinance authorizing the City Manager to lease a surplus City vehicle to 100 Black Men of the Bay Area Community School for official school purposes, including the transport of students to the Oakland campus.

Financial Implications: See report

Contact: William Rogers, City Manager's Office, 981-7000

## 6. Renewal of the Solano Avenue Business Improvement District for 2013 From: City Manager

**Recommendation:** Adopt a Resolution:

- 1. Approving a report and preliminary budget on proposed improvements in the District for 2013;
- 2. Declaring the Council's intent to levy an assessment to finance improvements in the District for 2013; and
- 3. Directing the City Clerk to schedule a public hearing on the renewal of the assessment for December 11, 2012.

Financial Implications: See report

Contact: Michael Caplan, Economic Development, 981-7530

#### 7. Abandoned Vehicle Abatement Program

From: City Manager

**Recommendation:** Adopt a Resolution approving the extension of the Abandoned Vehicle Abatement Program until May 31, 2023, and directing the City Manager to take any actions necessary, including executing any resultant agreements, to extend this Program and secure related funding.

Financial Implications: See report

Contact: Jane Micallef, Health, Housing and Community Services, 981-5400

## 8. Memorandum of Understanding: Winter Homeless Shelter Programs From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to enter into a Memorandum of Understanding with the City of Oakland, Department of Human Services, in an amount not to exceed \$76,000 for operation of the Winter Shelter Program at the Oakland Army Base.

Financial Implications: General Fund - \$76,000

Contact: Jane Micallef, Health, Housing and Community Services, 981-5400

#### **Consent Calendar**

# 9. Revenue Contract: Abode Services to Expand the Square One Program From: City Manager

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a revenue contract and any resultant agreements with Abode Services for funding in the amount of \$70,560 to expand the capacity of the Square One Program by providing five tenant-based rental subsidies to chronically homeless individuals.

Financial Implications: See report

Contact: Jane Micallef, Health, Housing and Community Services, 981-5400

# 10. Supplementary Retirement and Income Plan I, II, and III; Amending BMC Chapters 4.36, 4.38 and 4.39

From: City Manager

**Recommendation:** Adopt the first reading of three separate Ordinances:

- 1. Amending Berkeley Municipal Code (BMC) Chapter 4.36, Supplementary Retirement and Income Plan I (SRIP I) by repealing and reenacting Sections 601 (Method of distribution), 604 (Payment of small benefits) and adding Section 605 (Rollover); and 2. Amending Berkeley Municipal Code (BMC) Chapter 4.38, Supplementary Retirement and Income Plan II (SRIP II) by repealing and reenacting Sections 106 (Employee), 107 (Employer), 108 (Fiduciary), 601 (Method of distribution), 604 (Payment of small benefits), 801 (General purpose), 803 (Limitation upon the right to amend); adding Section 605 (Rollover) and Section 606 (Purchase of Permissive Service Credit); and
- 3. Amending Berkeley Municipal Code (BMC) Chapter 4.39, Supplementary Retirement and Income Plan III (SRIP III) by repealing and reenacting Sections 604 (Payment of small benefits); adding Section 605 (Rollover) and Section 606 (Purchase of Permissive Service Credit).

The amendments to these Ordinances are intended to bring SRIP I, SRIP II, and SRIP III into compliance with technical changes to the Internal Revenue Code and other Federal laws, rules, and regulations.

Financial Implications: None

Contact: David Hodgkins, Human Resources, 981-6800

# 11. Contract Amendment: CalPERS 3% at Age 55 Retirement Formula for Police Safety Employees and 3 Year Highest Average Compensation Earnable From: City Manager Recommendation:

1. Adopt a Resolution of Intention to amend the City's contract with the California Public Employees' Retirement System (hereinafter "CalPERS") to provide the 3% at Age 55 Retirement Formula for new employees hired after the effective date of the contract amendment as set forth in California Government Code Section 21363.1 with "final compensation" calculated on the highest average annual compensation earnable by a member during three consecutive years of employment as provided in Section 20037 for local police employees only; and

#### **Consent Calendar**

2. Adopt first reading of an Ordinance amending the City's contract with CalPERS to provide the 3% at Age 55 Retirement Formula for new employees hired after the effective date of the contract amendment as set forth in California Government Code Section 21363.1 with "final compensation" calculated on the highest average annual compensation earnable by a member during three consecutive years of employment as provided in Section 20037 for local sworn police employees only to be effective December 28, 2012.

Financial Implications: See report

Contact: David Hodgkins, Human Resources, 981-6800

## 12. Contract: Chrisp Company for Roadway Thermoplastic Markings

From: City Manager

**Recommendation:** Adopt a Resolution:

- 1. Rejecting the bid of \$1,138,090 by Chrisp Company received on May 31, 2012; and
- 2. Authorizing the City Manager to renegotiate bid items quantities, contracts and any amendments with Chrisp Company in an amount not to exceed \$750,000 to provide and install thermoplastic roadway markings for a period of 3 years.

Financial Implications: Special Gas Tax Improvement Fund - \$750,000

Contact: Andrew Clough, Public Works, 981-6300

#### 13. Donation from Friends of Fountain Walk

From: City Manager

**Recommendation:** Adopt a Resolution accepting a donation of up to \$40,000 from the Friends of Fountain Walk for repairs to the historic balustrades and railings along Fountain Walk from Marin Circle to Del Norte Street.

**Financial Implications:** Donation up to \$40,000 Contact: Andrew Clough, Public Works, 981-6300

## 14. Sewer Easement Deed Agreement at 459/465 Boynton Avenue

From: Public Works

**Recommendation:** Adopt first reading of an Ordinance authorizing the City Manager to accept an Easement Deed Agreement for relocation of sewer pipe facilities with Ms. Susan Beauchamp and Mr. Robin Beauchamp of 459/465 Boynton Avenue, Berkeley.

Financial Implications: None

Contact: Andrew Clough, Public Works, 981-6300

#### 15. Sewer Easement Deed Agreement at 2705 Walker Street

From: City Manager

**Recommendation:** Adopt first reading of an Ordinance authorizing the City Manager to accept an Easement Deed Agreement for relocation of sewer pipe facilities with Ms. Maudelle Shirek of 2705 Walker Street, Berkeley.

Financial Implications: None

Contact: Andrew Clough, Public Works, 981-6300

#### **Council Consent Items**

16. Referral to the Community Environmental Advisory Commission Regarding the Fire at the Chevron Richmond Refinery of August 21, 2012 and the Resulting Health Advisory Communications with the City of Berkeley From: Councilmember Capitelli

**Recommendation:** Request that the Community Environmental Advisory Commission (CEAC) research the aftermath of the recent fire at the Chevron Richmond Refinery of August 21, 2012 and the Bay Area Air Quality Management District's response to, and communications with the City of Berkeley regarding its citizens' alert system. Subsequent to those findings, CEAC is requested to report back to the City Council with recommendations for improved communications and/or procedures for future health advisories, if necessary.

Financial Implications: None

Contact: Laurie Capitelli, Councilmember, District 5, 981-7150

#### **Action Calendar**

After the initial ten minutes of public comment on non-agenda items and public comment and action on consent items, the public may comment on each remaining item listed on the agenda for action as the item is taken up. Where an item was moved from the Consent Calendar to Action no speaker who has already spoken on that item would be entitled to speak to that item again.

The Presiding Officer will request that persons wishing to speak line up at the podium to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.

#### **Action Calendar – Old Business**

17. Residential Preferential Parking (RPP): Vehicle Registration Requirements (Continued from October 16, 2012)

From: Councilmember Arrequín

**Recommendation:** Refer to the City Manager and the Transportation Commission to evaluate and bring back for Council discussion alternatives to the requirement that vehicles must be registered at an address within an RPP area to qualify for a permit. **Financial Implications:** Unknown; possible increased revenue from additional permits issued.

Contact: Jesse Arreguin, Councilmember, District 4, 981-7140

18. Coro Center for Civic Leadership: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds (Continued from October 16, 2012)
From: Councilmember Worthington

**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$1,000 per Councilmember, including an amount not to exceed \$1,000 from Councilmember Worthington, to the Coro Center for Civic Leadership with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Worthington and any other Councilmembers who would like to contribute.

Financial Implications: Councilmember's Discretionary Fund - \$1,000

Contact: Kriss Worthington, Councilmember, District 7, 981-7170

#### **Action Calendar – New Business**

# 19. Consideration of Revisions to Policy Regarding Immigration Detainers in the Berkeley Jail

From: City Manager

**Recommendation:** Review and comment on an amended policy drafted pursuant to the Council's direction at its June 19, and September 18, 2012 meetings regarding

Immigration Detainers (General Order J-1 [139]).

Financial Implications: See report

Contact: Michael Meehan, Police, 981-5900

#### 20. Watershed Management Plan

From: City Manager

**Recommendation:** Adopt a Resolution adopting the proposed Mitigated Negative Declaration for the Watershed Management Plan, and adopting the Watershed

Management Plan.

Financial Implications: See report

Contact: Andrew Clough, Public Works, 981-6300

#### **Information Reports**

# 21. Community Health Commission Accomplishments and Membership From: Community Health Commission

Contact: Tasha Tervalon, Commission Secretary, 981-5400

## Public Comment – Including Items Not Listed on the Agenda –

## **Adjournment**

**NOTICE CONCERNING YOUR LEGAL RIGHTS**: If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc., 1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a use permit or variance, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.

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Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of the civic center located at 2180 Milvia Street as well as posted on the City's website at <a href="http://www.cityofberkeley.info">http://www.cityofberkeley.info</a>.

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6908 or clerk@cityofberkely.info for further information.

Agendas and agenda reports may be accessed via the Internet at <a href="http://www.ci.berkeley.ca.us/citycouncil">http://www.ci.berkeley.ca.us/citycouncil</a> and may be read at reference desks at the following locations:

City Clerk Department Libraries:

2180 Milvia Street Main - 2090 Kittredge Street

Tel: 510-981-6900 Claremont Branch – 2940 Benvenue

TDD: 510-981-6903

Fax: 510-981-6901 North Branch – 1170 The Alameda Email: clerk@ci.berkeley.ca.us

#### COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location.

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6346(V) or 981-7075 (TDD) at least three business days before the meeting date.

Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.



Captioning services are provided at the meeting, on B-TV, and on the Internet. In addition, assisted listening devices for the hearing impaired are available from the City Clerk prior to the meeting, and are to be returned before the end of the meeting.

I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way, as well as on the City's website, on October 18, 2012.

Mark Numainville, Acting City Clerk

#### Communications

Mad Municipal

Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record.

#### **Community Input on Proposed Projects**

Steve Martinot

#### San Rafael's Smoking Laws

2. Carol Denney

#### **Municipal Bonds Article**

3. Barbara Gilbert